

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34762

CSX TRANSPORTATION, INC.—TEMPORARY TRACKAGE RIGHTS EXEMPTION—  
ALABAMA GREAT SOUTHERN RAILROAD COMPANY

Decided: September 23, 2005

On September 22, 2005, CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 CFR 1180.2(d)(8) to obtain temporary overhead trackage rights over certain rail lines operated by the Alabama Great Southern Railroad Company (AGS), a subsidiary of Norfolk Southern Railway Company (these two entities will be referred to collectively as NSR). The NSR lines in question generally run between Birmingham, AL, and Shrewsbury, LA, a total distance of approximately 355.1 miles. Because Board regulations at 49 CFR 1180.4(g) require that a notice of exemption be filed at least one week before the covered transaction can be consummated, the earliest date CSXT could consummate the transaction by application of the rule would be September 29, 2005.

Concurrently with the filing of the notice of exemption and in light of the serious damage caused to CSXT lines by Hurricane Katrina, CSXT filed a request that we waive the requirement of 49 CFR 1180.4(g) and permit the notice of exemption to become effective sooner so that operations under the agreed-upon arrangement could commence no later than September 24, 2005. CSXT explains that the hurricane destroyed or severely damaged substantial portions of its Jacksonville, FL, to New Orleans, LA main line between Pascagoula, MS, and New Orleans. Since the hurricane, CSXT has been interchanging traffic with connections north of the Gulf Coast to avoid the damaged rail lines. However, there has been increasing congestion on available east-west lines due to capacity constraints, and CSXT believes that there will be further substantial negative impacts on east-west traffic routes due to its inability to provide direct overhead service. Because of the extensive damage to its rail line, CSXT does not expect the line to be operable in the immediate future.

To help alleviate these problems, NSR has agreed to grant temporary overhead trackage rights to CSXT on NSR's route between Birmingham, AL, and Shrewsbury, LA.<sup>1</sup> The trackage rights will permit CSXT to reroute the traffic it is currently interchanging so that the carrier can provide continuous east-west overhead service between Jacksonville, FL, and

---

<sup>1</sup> An incidental portion of the rail line, consisting of four-tenths of a mile, is operated by NSR via a trackage rights agreement between AGS and The Kansas City Southern Railway

New Orleans, LA. CSXT asks that we grant its waiver request so that it can begin operations immediately and quickly reestablish overhead service. CSXT states that NSR agrees that the waiver should be granted. In addition, NSR and CSXT have discussed the need for these trackage rights with their affected unions, who have agreed to waive the 20-day notice period for the imposition of labor protective conditions under Norfolk and Western Railway Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified by Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980) (N&W Conditions), in order to expedite this transaction. CSXT's temporary trackage rights exemption will of course be subject to the usual employee protective conditions, including the N&W Conditions.

We will grant the waiver request. Making the exemption effective on the service date of this decision will help CSXT provide more effective service immediately and lessen the congestion caused by Hurricane Katrina. Furthermore, granting the petition will have no adverse impact on any element of the rail transportation policy of 49 U.S.C. 10101.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. The request for waiver is granted.
2. The temporary trackage rights exemption covered by the verified notice of exemption filed in this proceeding will be effective on the service date of this decision.
3. This decision is effective on its date of service.

By the Board, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams  
Secretary

---

Company (KCSR). KCSR has consented to the use of the KCSR segment for the purposes of this transaction.